

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Mobi PCS, Inc. and Cricket)
Communications, Inc. Petition Requesting)
the Federal Communications Commission)
To Provide Guidance to the Universal)
Service Administrative Company)

CC Docket No. 96-45

**PETITION REQUESTING THE FCC TO PROVIDE GUIDANCE
TO THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY**

Mobi PCS, Inc. ("Mobi") and Cricket Communications, Inc. ("Cricket") hereby petition the Federal Communications Commission ("Commission") to provide guidance to the Universal Service Administrative Company ("USAC") regarding permissible implementations of Section 54.307(b) of the Commission's rules (the "Rule"), 47 C.F.R. § 54.307(b). The Rule requires competitive eligible telecommunications carriers ("ETCs") to report the number of lines they serve in a rural incumbent local exchange carrier's ("ILEC") service area based on the customer's billing address.¹ The Rule makes clear that the billing address must be used, but it does not explicitly address how ETCs should treat billing addresses that contain a Post Office Box ("P.O. Box") rather than a street address. Where the Commission's rules do not address a particular situation, USAC must seek guidance from the Commission.² Therefore, Mobi and Cricket respectfully request that the Commission provide USAC with the guidance set forth in this Petition regarding the reporting of billing addresses that contain a P.O. Box.

¹ 47 C.F.R. § 54.307(b).

² 47 C.F.R. § 54.702(c) ("The Administrator may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress. Where the Act or the Commission's rules are unclear, or do not address a particular situation, the Administrator shall seek guidance from the Commission.").

I. THE COMMISSION SHOULD PROVIDE GUIDANCE TO USAC REGARDING PERMISSIBLE IMPLEMENTATION OF RULE 54.307(b)

Rule 54.307(b) requires competitive ETCs to report the number of lines they serve in a rural ILEC's service area. Rule 54.307(b) provides in relevant part as follows:

In order to receive [universal service] support pursuant to this subpart, a competitive [ETC] must report to [USAC] the number of working loops it serves in a service area Competitive [ETCs] providing mobile wireless service in an incumbent LEC's service area shall use the customer's billing address for purposes of identifying the service location of a mobile wireless customer in a service area.³

The rule makes plain that competitive ETCs providing mobile wireless services must use the customer's billing address to report the number of lines they serve in each rural ILEC's service area.

With respect to the vast majority of billing addresses, ETCs can easily identify the rural ILEC service area that corresponds with that billing address. For example, ETCs can use available software to identify automatically the rural ILEC service area associated with each billing address.⁴ However, when a customer utilizes a P.O. Box as its billing address, the ETC cannot use

³ *Id.* The use of the billing address for identifying the relevant rural ILEC was established and affirmed in several Commission orders. See *Federal-State Joint Board on Universal Service*, 20 FCC Rcd 6371, ¶ 82 (2005) (reconfirming that use of the customer's billing address was a reasonable approach); *Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Petitions for Reconsideration filed by: Coalition of Rural Telephone Companies, Competitive Universal Service Coalition, Illinois Commerce Commission and National Telephone Cooperative Association*, 17 FCC Rcd 11472, ¶ 13 (2002) ("Rural Task Force Recon. Order") (denying a request for reconsideration of its use of the customer's billing address to determine the customer's location for purposes of providing high-cost support); *Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd 11244, ¶ 180 (2001) ("Rural Task Force Order") (concluding that a customer's billing address was a "reasonable surrogate to identify a mobile wireless customer's location for the purpose of identifying a corresponding disaggregation zone and thus the appropriate per-line support level.").

⁴ See, e.g., TeleAtlas Telecommunications Products, at <http://www.adci.com/html/teleatlas.php>; CostQuest USF Tool Kit at

geocoding software to identify automatically the rural ILEC service area associated with the billing address. Instead, the ETC must manually identify the rural ILEC service area associated with the billing address.

In some rural areas where residents and businesses must use a P.O. Box for their billing address, a single rural ILEC serves most, if not all, of the customers served by a particular Post Office. For example, an entire rural town and surrounding area may lie within a single ILEC serving area such that every customer with a P.O. Box in the town's Post Office is served by that ILEC. In these circumstances, a reasonable implementation of Rule 54.307(b) is for the ETC itself simply to identify the rural ILEC that serves the customers with P.O. Boxes for billing addresses, and report the number of working lines for those customers in the corresponding rural ILEC's service area. Specifically, the ETC could determine that a particular rural Post Office lies within a specific ILEC's service area such that all customers with P.O. Boxes from that Post Office are likely served by that ILEC, in which case the ETC would report working lines for customers with P.O. Boxes from that Post Office in that ILEC's service area. Since every customer would identify the same ILEC serving area if asked, no purpose would be served by requiring the ETC to seek confirmation from each customer.

In other rural areas where residents and businesses must use a P.O. Box for their billing address, two or more rural ILECs serve those customers. In such circumstances, a reasonable implementation of Rule 54.307(b) is to permit each customer individually to identify the rural ILEC that serves his or her billing address (*i.e.*, the rural ILEC from which they receive

http://costquest.com/costquest/Docs/Product_Service_Profile%20-%20USACToolsILEC_v3.pdf. (noting that their product can assist carriers in "determin[ing] the location of each and every customer and attribut[ing] appropriate service counts to each wire center.")

service at the listed billing address), and report that customer's working line(s) in the corresponding rural ILEC's service area.

Both means for implementing Rule 54.307(b) are reasonable, because customer reported information regarding the billing address is used to identify the appropriate ILEC serving area for reporting purposes. Indeed, Rule 54.307(b) is based upon the assumption that customers have no incentive to provide false information in order to increase universal service payments to its service provider. As the Commission explained when it rejected a petition to reconsider its decision to rely on the customer's billing address rather than the Mobile Telecommunications Sourcing Act ("MTSA") definition of "place of primary use" to determine a mobile wireless customer's location,

[i]n both cases, the underlying address information will be provided by the customer, who is unlikely to be providing false information in order to increase universal service payments to its service provider. . . . Further, . . . if a competitive ETC misuses a customer's billing address by identifying a customer in a high-cost zone when service is primarily provided in a low-cost zone for the purposes of receiving a higher level of per-line support, the Commission may take appropriate enforcement action.⁵

Accordingly, where the use of a P.O. Box for a billing address makes it administratively difficult to identify the rural ILEC's service area associated with that billing address, it is reasonable to rely upon information provided by the customer to do so. Likewise, where only one rural ILEC serves an area where certain residences and businesses must rely on P.O. Boxes for billing addresses, it is reasonable to report the working loops for those customers in the corresponding rural ILEC's service area.

For these reasons, Mobi and Cricket respectfully urge the Commission to provide USAC with guidance regarding permissible implementations of Rule 54.307(b) in the interest of

⁵ *In re Federal-State Joint Board on Universal Service*, 20 FCC Rcd 6371, ¶ 82 (2005).

facilitating USAC's administration of the universal service fund and avoiding unnecessary questions and disputes during universal service audits. Specifically, Mobi and Cricket request that the Commission send a letter to USAC clarifying that either of the two means for implementing Rule 54.307(b) set forth in this Petition are permissible provided that the ETC implements the rule consistently and retains all records that may be required to demonstrate to the Commission or Administrator that the reports made were in compliance with Rule 54.307(b).⁶ The requested guidance letter would not constitute an exhaustive list of permissible implementations of 47 C.F.R. § 54.307(b) or affect the authority of the Commission or USAC to conduct audits or investigations to determine compliance with the competitive ETC support rules and requirements.⁷

II. THE PUBLIC INTEREST WOULD BE SERVED BY PROVIDING GUIDANCE TO USAC ABOUT PERMISSIBLE IMPLEMENTATIONS OF RULE 54.307(b)

USAC, ETCs and the Commission itself all would benefit from Commission guidance to USAC regarding permissible implementation of Rule 54.307(b) with respect to billing addresses that contain a P.O. Box. Indeed, where the Commission's rules do not address a particular situation, USAC is required by Section 54.702(c) of the Commission's rules, 47 C.F.R. § 54.702(c) to seek guidance from the Commission regarding the situation. Here, Rule 54.307(b) makes clear that competitive ETCs must report the number of lines they serve in a rural ILEC's service area based on the customer's billing address. However, the Rule does not explicitly address

⁶ For example, see the proposed Draft Guidance Letter to USAC attached hereto as Attachment A.

⁷ The Commission already addressed the issue of abusive reporting practices in its *Rural Task Force* orders. Specifically, the Commission recognized that carriers could arbitrage the universal service high cost support fund program by self-identifying its customers as being in a high-cost zone. *Rural Task Force Order*, ¶ 183. The Commission noted in the 2001 *Rural Task Force Order* that it would "take appropriate enforcement action" if a carrier engaged in arbitrage. *Id.* The Commission reiterated this position in its 2002 *Rural Task Force Recon. Order*, stating it "believe[s] that sufficient safeguards are in place to alleviate those concerns." *Rural Task Force Recon. Order*, ¶ 14.

how ETCs should treat billing addresses that contain a P.O. Box rather than a street address.⁸ As such, until USAC receives guidance from the FCC about how ETCs can treat billing addresses that contain a P.O. Box, USAC cannot efficiently perform all of its duties, including the disbursement of USF support⁹ and the auditing of USF support recipients.¹⁰ Accordingly, the public interest would be served by providing the guidance requested in this Petition to USAC, which will facilitate USAC's ability efficiently to disburse USF funds and audit recipients of USF support.

⁸ 47 C.F.R. § 54.307(b).

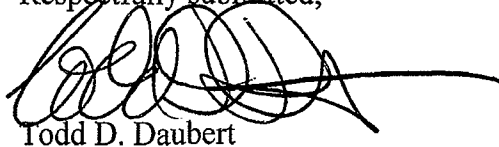
⁹ 47 C.F.R. § 54.702(b).

¹⁰ 47 C.F.R. § 54.702(n).

III. CONCLUSION

For the reasons set forth above, Mobi and Cricket respectfully request that the Commission provide USAC with the guidance set forth in this Petition regarding the reporting of billing addresses that contain a P.O. Box.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Todd D. Daubert', with a long horizontal flourish extending to the right.

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*On behalf of Mobi PCS, Inc. and
Cricket Communications, Inc.*

Dated: May 29, 2009

ATTACHMENT A

_____, 2009

Scott Barash
Acting CEO
Universal Service Administrative Company
2000 L Street, NW
Suite 200
Washington, DC 20036

Dear Mr. Barash:

This letter provides the Universal Service Administrative Company (USAC) with clarification regarding certain permissible implementations of section 54.307(b) of the rules of the Federal Communications Commission ("Commission"), 47 C.F.R. § 54.307(b). Specifically, this letter clarifies that competitive eligible telecommunications carriers (ETCs) providing mobile wireless service to a customer whose billing address is a Post Office Box can identify, for the purpose of reporting working loops pursuant to 47 C.F.R. § 54.307(b), the rural incumbent local exchange carrier (ILEC) service area for that billing address by:

- determining the rural ILEC service area in which the Post Office serving the billing address is located; or
- requesting the customer to identify the rural ILEC serving the customer's billing address.

Either of these two implementations of 47 C.F.R. § 54.307(b) is permissible, provided that the ETC uses the same method for every customer served by a particular Post Office. The ETC must also retain all records that may be required to demonstrate to the Commission or Administrator that the reports made were in compliance with the permissible interpretation upon which the ETC relied to report working loops pursuant to 47 C.F.R. § 54.307(b).

It is important to note that this letter does not constitute an exhaustive list of permissible implementations of 47 C.F.R. § 54.307(b), and this action does not affect the authority of the Commission or USAC to conduct audits or investigations to determine compliance with the competitive ETC support rules and requirements.

Sincerely,